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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,859	04/24/2001	Adam G. Malofsky	7962801/502	5663

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06/24/2003

FROST BROWN TODD LLC
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EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/24/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 4/30/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-67 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-67 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-67 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, the Examiner's rejection of the earlier recitation in claim 1 regarding the use of (a) . . . (d) and in claim 60 the use of (c) . . . (d) is repeated as being unduly confusing since the discussions set forth in the original after final response filed March 14, 2003 at page 6, first full paragraph leaves the claims as vague, indefinite and confusing for reasons already of record. Of a more serious nature the Examiner notes that in claim 1, lines 3 and 7 the recitation of the layers being "on" one another clearly does not mean the same as "onto" found in line 4, and consequently whether or not a layer is immediately adjacent another layer or whether it is not is not readily apparent from a reading of the claim. In a similar vein, the recitation of "on" in claim 60, line 3 is again not believed to define the same structural relationship as "against the inward side" in line 4 of the claim. Additionally, other informalities which may be even less readily apparent may well also exist in each of the independent claims. As a result, the Examiner respectfully submits that applicants' independent claims 1 and 60 are both

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vague, indefinite and confusing with respect to the physical structure of the various layers set forth, despite the fact that the defined genres of physical structures are believed to each be relatively simple in nature.

3. Claims 1-67 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brooks, substantially for the reasons set forth in paragraph No. 3 of Paper No. 12, together with the following additional observations. Applicants have strenuously argued in their supplemental response after final rejection filed concurrently with the RCE application that in essence their claimed invention relates to embodiments which do not substantially or completely cover the upper surface of the susceptor with adhesive. However, it is noted that column 3, lines 31-37, particularly lines 35-37 further disclose that the adhesive may be provided in almost any pattern, either, e.g., as a continuous layer or "as one or more longitudinally extending ribbons or beads or as individual beads or in a pattern or the like". As such, the reference coated adhesive layer structures are believed to either expressly or inherently read upon applicants' claimed performance parameters, or, alternatively be at most an obvious optimization to one of ordinary skill, in the absence of unexpected results not heretofore shown on the record.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

June 5, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~
1700

Daniel Zirker